

REMARKS/ARGUMENTS

Claims 19-25 and 34-39 are pending.

Claims 1-18 and 26-33 have been cancelled.

In the Office Action dated January 39, 2009, claims 19-25 and 34-39 were rejected under 35 U.S.C. § 103 over U.S. Patent No. 6,664,969 (Emerson) in view of U.S. Patent No. 6,891,973 (Atsumi).

DISQUALIFICATION OF EMERSON AS PRIOR ART UNDER 35 U.S.C. § 103(c)

The present application and Emerson (U.S. Patent No. 6,664,969) were, at the time the present invention was made, owned by or subject to obligation of assignment of ownership to the same person (Hewlett Packard Development Co., L.P.).

Emerson was filed November 12, 1999, and issued on December 16, 2003, which is after the filing date (October 31, 2001) of the present application. Therefore, Emerson qualifies as prior art only under 35 U.S.C. § 102(e).

According to § 103(c),

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.


Therefore, Emerson has been disqualified as prior art pursuant to § 103(c). The obviousness rejection of all claims over Emerson and Atsumi has therefore been overcome.

In view of the foregoing remarks, it is respectfully submitted that all claims are in condition for allowance which is hereby earnestly solicited and respectfully requested.

The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10017761-1).

Respectfully submitted,

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